

# 2006 BCSECCOM 453

## Temporary Order and Amended Notice of Hearing

**Douglas Arnold Clarke, Bick Financial Services Inc., Daryl Joseph Klein and Kleincorp Mgmt. Inc., doing business as Insta-Cash Loans (collectively, the Respondents)**

### **Section 161 of the *Securities Act*, RSBC 1996, c. 418**

¶ 1 The Commission will hold a hearing at which the Executive Director will tender evidence, make submissions and apply for orders against the Respondents under sections 161, 162 and 174 of the *Securities Act*, RSBC 1996, c. 418 (Act), based on the following facts:

¶ 2 ^

#### **Background**

1. Kleincorp Mgmt. Inc. (Kleincorp) is a company incorporated in British Columbia. Kleincorp carries on a pawn broking business under the name Insta-Cash Loans (ICL) with offices in Abbotsford, Burnaby, Maple Ridge, Nanaimo, Kelowna and Victoria, British Columbia.
2. Kleincorp has never filed a prospectus.
3. Daryl Joseph Klein (Klein) is a resident of Nanaimo, British Columbia. Klein is the president, director, and secretary of Kleincorp.
4. Bick Financial Services Inc. (Bick) is a company incorporated in British Columbia and has an office in Nanaimo, British Columbia.
5. Douglas Arnold Clarke (Clarke) is a resident of Nanaimo, British Columbia. Clarke was the guiding mind and a director and officer of Bick.
6. The Respondents have never been registered to trade securities under the Act except for Clarke who was registered as a salesperson in mutual fund securities from April 7, 1999 until April 1, 2003.

#### **Illegal Trading and Distribution of Securities**

7. Between November 2001 and December 2004 the Respondents raised approximately \$4,102,796 from approximately 200 investors (Investors) through the sale of Kleincorp securities. Most of the Investors were from British Columbia.

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8. The Investors gave Bick money to purchase Kleincorp securities. Bick then provided this money to Kleincorp. Kleincorp used the money received from the Investors through Bick for loans to its pawn broking clients.
9. Kleincorp paid Bick monthly payments of interest and repayments of principal on the funds received from Bick. Bick deposited these funds into an operating account and paid Investors a portion of these funds, keeping the remainder as its fees.
10. Clarke held himself out as being engaged in the business of advising others with respect to the purchase or sale of securities and recommended that Investors purchase Kleincorp securities.
11. Clarke was not registered to act as an Advisor under the Act.
12. Clarke acted as an Advisor without being registered, contrary to section 34 of the Act.
13. ^

### **Continuing Conduct**

14. Kleincorp.'s retained earnings have been negative since at least 2001.
15. The amount that Kleincorp owes the Investors has increased from \$1,333,516.50 in 2001 to \$9,612,008 in 2004.
16. Kleincorp became insolvent in 2005 or earlier.
17. In November 2005, Klein and Kleincorp stopped paying interest and principal on the funds owing to Investors.
18. Since December 2005, Klein and Kleincorp raised at least \$100,000 through the sale of Kleincorp securities to at least three more investors (Restructuring Pool Investors).
19. Kleincorp agreed to pay the Restructuring Pool Investors monthly payments of interest and repayments of principal on the funds received from the Restructuring Pool Investors.
20. Klein and Kleincorp deposited the Restructuring Pool Investors' funds into the same account that Klein and Kleincorp deposited the funds they received from Bick.

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21. Klein and Kleincorp intend to continue to raise funds through the sale of Kleincorp securities to more Investors.

### **Breaches of the Act and Conduct Contrary to the Public Interest**

22. Through their conduct and activities described in this Temporary Order and Amended Notice of Hearing, the Respondents:

- (a) traded in securities without being registered, contrary to section 34 of the Act; and
- (b) distributed securities without having filed a prospectus, contrary to section 61 of the Act.

23. The Respondents' conduct as set out in this Notice is contrary to the public interest.

¶ 3 ^  
¶ 4 ^  
¶ 5 ^  
¶ 6 ^  
¶ 7 ^

### **Temporary Order**

¶ 8 The Executive Director considers the length of time to hold a hearing under section 161(1) of the Act could be prejudicial to the public interest and, considering that it would be in the public interest to do so, orders (the Temporary Order) that:

1. under section 161(1)(a) of the Act, Klein and Kleincorp comply with or cease contravening the Act and the regulations;
2. under section 161(1)(b) of the Act, Klein and Kleincorp cease trading in any securities; and
3. under section 161(1)(d) of the Act, Klein resign from any positions that he holds as, and is prohibited from becoming or acting as, a director or officer of any issuer, and is prohibited from engaging in investor relations activities,

for a period expiring on August 11, 2006.

### **Hearing Process**

¶ 9 The Hearing will be held at the 12<sup>th</sup> Floor Hearing Room, 701 West Georgia Street, Vancouver, BC, on August 11, 2006 at 9:00 am.

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- ¶ 10 At the Hearing, staff of the Commission will ask the Commission to extend the Temporary Order until such time as the Hearing scheduled to commence on October 3, 2006 is completed and a decision is rendered.
- ¶ 11 At the Hearing, the Respondents may be represented by counsel, make submissions and tender evidence. The Respondents are requested to advise the Commission of their intention to attend the Hearing by informing the Commission Secretary at PO Box 10142, Pacific Centre, 701 West Georgia Street, Vancouver, BC V7Y 1L2 phone: (604) 899-6500; email: commsec@bcsc.bc.ca.
- ¶ 12 If the Respondents or their counsel do not appear at the Hearing, the Executive Director will apply to have questions of liability and sanction heard at the same time. Determinations adverse to the Respondents may be made in their absence.
- ¶ 13 August 1, 2006
- ¶ 14 Brenda M. Leong  
Executive Director